

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**DAVID TORRES**

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**CRIMINAL NO. A-11-CR-360-(16)-SS**

**FACTUAL BASIS**

Had this matter proceeded to trial, the United States Attorney was prepared to prove the following facts beyond a reasonable doubt:

From April, 2009, to July 14, 2011, the FBI gang task force has been investigating members and associates of the Texas Mexican Mafia located in Austin, Texas and the surrounding counties. This investigation employed the use of multiple surveillances of TMM members, multiple search warrants on the residences and/or stash houses of TMM members, multiple pen registers as well as multiple wiretaps which captured thousands of phone calls between TMM members and others, including DAVID TORRES. Throughout the investigation the task force has been able to debrief a number of cooperators in Austin and other cities. Through the combination of all of these efforts the task force has documented that the indicted co-conspirators have conspired to possess with intent to distribute well in excess of five kilograms of cocaine during the time period from April, 2009 to July 14, 2011.

On August 26, 2010, TMM members Paul Rodriguez and Danny Vallejo were arrested in possession of marijuana, an SKS assault rifle, a sledge hammer, a Hi-Point .40 caliber handgun with a full magazine, three scales, heat sealed bags, glass pipes, \$7,146, a small bag of cocaine and

MDMA tablets. Rodriguez' phone was seized by law enforcement and was found to contain DAVID TORRES' phone number/name along with seven of the other co-defendants.

Law enforcement was able to observe and/or learn of TMM meetings over the wire interceptions. On February 1, 2011, TORRES was observed at a TMM meeting at co-defendant Mendieta's residence. On February 11, 2011, TORRES attended a TMM meeting at co-defendant Morin's residence. On February 26, 2011, TORRES hosted a meeting at 308 Branch. On March 29, 2011, TORRES attended a meeting held at co-defendant Mendieta's residence.

During the wire interceptions, TORRES was intercepted in numerous drug related conversations as well as TMM related conversations with his co-defendants, including Flores and Morin. For example, on February 3, 2011, at approximately 12:02 p.m., TORRES spoke to co-defendant Morin, and they discussed the quality of the crack cocaine they were cooking and selling. On February 3, 2011, at 5:12 p.m., TORRES, using 512-284-5489, and Morin, discussed "taxing" a drug seller to whom Morin has a close relationship. On February 20, 2011, at approximately 3:38 p.m., TORRES discussed his ongoing crack sales in Taylor, TX, while Morin talked about heroin sales and involvement with co-defendant Edward Zuniga, a.k.a. EZ. On February 22, 2011, TORRES talked with Flores about Flores upcoming trip to obtain illegal drugs. On March 15, 2011, co-defendants Flores and Morin were intercepted in a conversation in which Flores instructed Morin to have co-defendant Zuniga pick up three ounces of heroin from TORRES.

Multiple search warrants as well as consent searches of members of this conspiracy were conducted on July 14, 2011. Paperwork was located at several locations, including the residence of Ruben Flores, where dope notes were located indicating ROMO 10500, MOE 9000, D 17000, TAZ

9000, SLAYER 25200, 10800 SHADOW - 5000, DANNY B 17000, SONNY 4250. Law enforcement was already aware from the wire interceptions that TORRES owed \$17,000 in a drug debt. At TORRES residence was what appeared to be a TMM sign in sheet which contained the name DAVID TORRES, his a.k.a. listed as "Big D," and his accurate date of birth. The same type of information was also listed for co-defendants Ruben Flores, Arnulfo Perez, David Romo, David Samarripa, Domingo Mendieta, Nick Estrada, and Mike Martinez. In addition to paperwork, law enforcement officers located numerous guns at different defendants' residences, including the residences of TORRES, Morin, David Romo, Michael Martinez, Edward Zuniga, Domingo Mendieta, Luis Salazar, and Ernest Lopez. Heroin and cocaine were seized from other residences. Over a kilo of heroin was seized from Ruben Flores' house and about 8.81 grams of cocaine. Over 467 grams of cocaine was seized from ARNULFO PEREZ-TORRES' residence. Over 98 grams of heroin was found at a residence associated with Michael and Crystal Morin. Smaller quantities of drugs were seized at other co-defendants' residences including the residence of TORRES.

This one day seizure on July 14, 2011, was conducted randomly (without the assistance of a wiretap so that law enforcement had no way of knowing if the search day was a good day to locate drugs in the co-defendants' possession). Despite the fact that the searches were conducted without the benefit of an ongoing wiretap, and covered only one day, the size of these seizures helps document the scope of the conspiracy over a two year time period. The wiretap demonstrates multiple other acts of drug-trafficking.

This is just a small summary of the evidence that would be presented at trial to demonstrate that there was a conspiracy, that the Defendant was part of this conspiracy, and that the members of this conspiracy distributed well in excess of five kilograms of cocaine among other controlled

substances. A full trial would provide more extensive information regarding the pen registers, the large number of law enforcement surveillances of the co-conspirators, the role/rank of the Defendant, a more complete recitation of intercepted phone calls, more extensive information regarding the evidence uncovered during the search warrants, etc.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 8th day of September, 2011, I electronically filed the forgoing with the Clerk of the court using the CM/ECF system which will send notification of such filing to the following attorney of record:

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